

# STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION  
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**PETITION OF NORTHERN INDIANA PUBLIC  
SERVICE COMPANY FOR APPROVAL OF FUEL  
COST CHARGE AND CUSTOMER CREDIT  
ADJUSTMENT TO BE APPLICABLE IN THE  
MONTHS OF NOVEMBER, DECEMBER 2005 AND  
JANUARY 2006 PURSUANT TO I.C. 8-1-2-42 AND  
CAUSE NO. 41746**

**FILED**

**CAUSE NO. 38706-FAC68**  
SEP 02 2005

INDIANA UTILITY  
REGULATORY COMMISSION

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") has caused the following entry to be made:

On August 15, 2005, Northern Indiana Public Service Company ("NIPSCO" or "Petitioner") filed its Petition in this Cause. On August 24, 2005, Petitioner filed the direct testimony of Frank A. Shambo. Attached to this testimony as an exhibit is a document entitled "Settlement Agreement." The testimony states "I am supporting the reasonableness of the Settlement's provisions as they relate to NIPSCO's petition in this Cause ("FAC68")." However, upon further review of the testimony, it is unclear as to whether Petitioner is requesting approval of the terms only as they apply to this FAC proceeding, or asking for approval of the entire settlement agreement, which involves at least three other Causes pending before the Commission. It is also unclear as to whether Petitioner filed the Settlement Agreement and requested approval thereof in those other causes. If Petitioner's approach is to only request approval of the Settlement Agreement herein, several failings materialize. One perhaps fatal flaw is legal notice of the issues being considered when the Settlement Agreement implicates those other causes more significantly than this Cause. Another is the lack of time to fully address those issues in the summary proceeding.

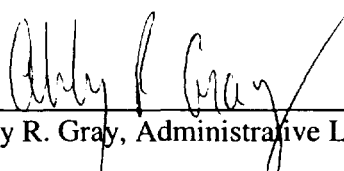
The presiding officer now finds that the appropriate forum(s) for a full examination of the Settlement Agreement is in the Causes it addresses rather than in this summary FAC proceeding, the purpose of which is to address fuel costs. Therefore, the Settlement Agreement will not be addressed or litigated in this proceeding. In this proceeding we will consider the fuel costs, including those associated with purchases of intermediate dispatchable power generated by Whiting Clean Energy for the FAC period, which were approved on an interim basis in Cause No. 42824.

Further, on August 25, 2005, the Board of Commissioners of LaPorte County, Indiana ("LaPorte County") filed its Petition to Intervene and on August 30, 2005, NIPSCO filed its Response to the Petition to Intervene. The Petition to Intervene was filed under the Commission's previous procedural rules and we remind counsel to adhere to the current rules in the future. NIPSCO

stated in its Response that although not filed in compliance with the rules, it does not oppose such intervention, as long as LaPorte County prefiles any testimony by September 6, 2005, the date by which the Office of Utility Consumer Counselor ("OUCC") must file its statutory report. The statute gives the OUCC 20 days to review FAC petitions and file a report. That date appears to be reasonable for the filing of testimony in this summary proceeding. However, Petitioner did not file this testimony until August 24, and Laporte County does not yet know whether its intervention is granted. Therefore, suggesting that LaPorte should file testimony in less time (one business day) than it took NIPSCO to respond (three business days) to the Petition to Intervene is unreasonable.

The presiding officer now finds that LaPorte County's Petition to Intervene should be granted and that the Intervenor should file any direct testimony with the Commission by Wednesday, September 14, 2005 and that the testimony should be served contemporaneously on all parties. Any rebuttal should be filed by Noon, September 20, 2005 and served contemporaneously on all parties. The hearing should remain as scheduled.

**IT IS SO ORDERED.**

  
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Abby R. Gray, Administrative Law Judge

Date 9-2-05